

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SPECIAL CLOSED SESSION DOCKET
FOR
MONDAY, APRIL 26, 2004
AND
TUESDAY, APRIL 27, 2004**

NOTE: In accordance with the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings, adopted on March 29, 2004, a portion of the regular open meeting agenda of the City Council has been reserved for City Attorney comment, public comment, and City Council discussion of the content of this Closed Session Docket. Please see the Open Session Agenda to determine when such matters may be heard.

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

CS-1 *State of California v. City of San Diego*
U.S. District Court No. 03-CV-1381-B

SDCA assigned: Ted Bromfield

The Regional Water Quality Control Board [Regional Board] initiated this case on July 3, 2003, in conjunction with a companion action filed by the United States, seeking remedies and penalties for sanitary sewer overflows from December 1996 to the present. The City has consolidated these two cases with a private action filed by BayKeeper/Surfrider Foundation and has been pursuing a consent decree that would resolve all actions. In the Regional Board action, the complaint focuses on sewer overflows that amount to approximately 2.7 million gallons. This amount was increased on February 22, 2004, when the City experienced a 4.6 million gallon spill into San Diego Bay caused by rocks clogging a sewer line near the Naval Medical Center.

The City Attorney will discuss the strengths and weaknesses of the City's position and is seeking authorization to make a settlement offer to resolve all spills through date of settlement.

CS-2 *Border Business Park v. City of San Diego*
Appellate Case No. D039225; SDSC Case No. GIC 692794
Otay Acquisitions v. City of San Diego
SDSC Case No. GIC 753247
National Enterprises, Inc. v. City of San Diego
SDSC Case Nos. GIC 791407; GIC 805465

ACA assigned: Les Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The *Border Business Park* case resulted in a jury verdict against the City which is now on appeal. The *National Enterprises* and *Otay Acquisitions* cases are currently awaiting trial in the Superior Court. In closed session, the City Attorney will report on the status of on-going settlement negotiations and request further direction regarding those negotiations.

CS-3 *Chargers Football Company, LLC v. City of San Diego*
Los Angeles Superior Court No. BC 306 758

ACA assigned: Les Girard

This matter concerns the litigation filed by the San Diego Chargers [Chargers] against the City of San Diego [City], and the City's related cross complaint against the Chargers, over the validity of the "trigger" notice delivered to the City by the Chargers in March of 2003 pursuant to the 1995 agreement for the use of Qualcomm Stadium [1995 Agreement]. In closed session, the City's outside litigation counsel and the City Attorney will report on the status of the litigation and the status of any discussions with the Chargers concerning a proposal made by certain private citizens to end the litigation and modify the 1995 Agreement.

The proposal made by the private citizens would generally 1) require the Chargers to play at Qualcomm Stadium through the 2008 season; 2) permit the Chargers to play at the stadium on a year-to-year basis thereafter, but the Chargers could terminate the lease and leave San Diego; 3) eliminate the “ticket guarantee”; 4) require the Chargers to pay a flat rent of \$2 million per year through the 2008 season, and for each season the Chargers play at Qualcomm Stadium thereafter; and 5) if the Chargers terminate the lease after the 2008 season, the Chargers would pay the remaining principle on the City’s bonds issued to improve the stadium in 1997, with a reduction in that payment if the lease is not terminated until after the 2011 season.

Conference with Real Property Negotiator, pursuant to California Government Code section 54956.8:

CS-4 Property:	Approximately 1.25 acres located in the City of Santee on the east side of Highway 67 at the north terminus of Graves Avenue (APN 384-120-38).
City Negotiator:	William T. Griffith, Real Estate Assets Director
Negotiation:	Padre Dam Municipal Water District
Under Negotiation:	Terms of potential disposition of property
ACA assigned:	Les Girard

This matter involves an unsolicited offer made by Padre Dam Municipal Water District to purchase approximately 1.25 acres of City-owned property located in Santee for \$2,500. City staff will be seeking direction on whether to respond to this exclusive sale request, and if so on what price and terms.

CS-5 Property: Qualcomm Stadium

 City Negotiator: Council Member Michael Zucchet, Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, Paul Jacobs, Esq., Daniel S. Barrett, and Robert J. Kheel

 Negotiating Party: City of San Diego and the San Diego Chargers

 Under Negotiation: Real Property Interests at the Qualcomm Stadium site pursuant to the recommendations of the Citizens Task Force on Chargers Issues, and pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

ACA assigned: Les Girard

This matter involves negotiations authorized by the City Council in March of 2003 between the City of San Diego (City) and San Diego Chargers (Chargers) regarding the Qualcomm Stadium site, pursuant to both the recommendations of the Citizens' Task Force on Chargers Issues and the "Trigger Notice" sent to the City by the Chargers in March of 2003.

In closed session, the City's negotiating team will report to the City Council on the status of any discussion with the Chargers concerning a proposal made by certain private citizens to end the current litigation between the City and the Chargers, and modify the 1995 agreement for the use of Qualcomm Stadium by the Chargers. Please see the description on the closed session agenda under "pending litigation" – *Chargers LLC v. City* for a description of the proposal made by the private citizens.

**Conference concerning the salary and fringe benefits of the unrepresented employees,
pursuant to Government Code section 54957.6:**

- CS-6 In closed session, the City Manager and the Head of Human Resources will review with the City Council the City's position with respect to the salary and fringe benefits of the unrepresented and unclassified employees, and request instructions from the City Council as to those matters.

HDCA assigned: Chris Morris